No. _____

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1994

CHARLES W. WRIGHT, - - - - - - Petitioner,

versus

DENNIS R. TACKETT &
TACKETT, TAURMAN & SONNE LAW FIRM,
FREDERICK ADKINS,
FRED HALE & CITIZENS FIDELITY
BANK OF NEW ALBANY, INDIANA (now PNC),
LEWIS A. ENDRES &
YOUNG, LIND, ENDRES & KRAFT LAW FIRM,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

CHARLES W. WRIGHT,
(pro se)
832 Fulton Street
Jeffersonville, IN
47130
Tel: (812) 282-7497

58 pp

COURT ERRORS PRESENTED

1. Pursuant to the United States Constitution, Amendment Seven (positive law), in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, the United States Seventh Circuit Court of Appeals (as well as the United States District Court for the Southern District of Indiana, New Albany Division), deprived pro se Plaintiff Wright of his established right to a trial by jury to claim damages from Defendants whom had violated Plaintiff's sole real estate property right, which had been illegally seized by the Defendants.

2. According to the United States District Court's established sound docket and record which speaks for itself, had granted Plaintiff a trial by jury, of

which extensive costly depositions were held in preparation for such jury trial, then the district court erred by granting summary judgment for the Defendants, which resulted in appeal thereof, wherein the United States Seventh Circuit Court of Appeals knowingly committed further error by vacating the district court's summary judgment and remanded with instructions to the district court to dismiss Plaintiff's complaint for lack of subject matter jurisdiction, all in violation of Plaintiff/Petitioner's right to a trial by jury.

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1994

No. _____

CHARLES W. WRIGHT, - - - - - - Petitioner,

versus

DENNIS R. TACKETT & TACKETT,
TAURMAN & SONNE LAW FIRM,
FREDERICK E. ADKINS,
FRED HALE & CITIZENS FIDELITY BANK
OF NEW ALBANY, INDIANA (now PNC),
LEWIS A. ENDRES & YOUNG, LIND,
ENDRES & KRAFT LAW FIRM, - - - Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT

Petitioner, Charles W. Wright, pro se, requests that a writ of certiorari be issued to review the United States District Court's ruling, and the United States Seventh Circuit Court of Appeals decision,

wherein, both courts denied Petitioner's Seventh Amendment Constitutional right to a trial by jury, pursuant to the established sound docket and record in this case.

OPINIONS BELOW

The United States District Court for the Southern District of Indiana, Cause No. NA-92-38-C, entered final judgment and entry-order, depriving Petitioner, Charles Wright, a trial by jury, which appears in Appendix (A) to this petition.

The United States Seventh Circuit Court of Appeals, Cause No. 93-3220, entered decision on November 2, 1994, depriving Petitioner a trial by jury, which appears in Appendix (B) to this petition.

JURISDICTION

The United States District Court opinion in this matter was filed on July 19, 1993 (Appendix A).

A timely motion for reconsideration

was filed in the U.S. District Court on July 26, 1993, and denied on August 19, 1993, which appears in Appendix (C) to this petition.

A timely notice of appeal to the U.S. Seventh Circuit Court of Appeals was filed on September 17, 1993, which appears in Appendix (C) to this petition.

The U.S. Seventh Circuit Appeals ruling appears in Appendix (B) to this petition, dated November 2, 1994.

This Court's jurisdiction is invoked under Title 28 USC 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution, Amendment Seven and Fourteen, are set forth in Appendix (D) to this petition.

STATEMENT OF THE CASE

Petitioner filed complaint in the United States District Court for the

Southern District of Indiana, New Albany Division, on April 6, 1992, Cause No. NA-92-38-C, against the Defendants for unconstitutional and unlawful foreclosure of Petitioner's sole real estate property, of which the Defendants deprived Petitioner access to the courts to defend his ownership of real estate described in his complaint filed in the U.S. District Court, in violation of Petitioner's right under the Fourteenth Amendment to the United States Constitution. See Appendix (D) to this petition which states as follows:

> AMENDMENT XIV-Section 1
> "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

On March 23, 1993, United States District Court Judge granted a trial by

jury. Contrarily thereto, on July 19, 1993, the U.S. District Court Judge entered an order granting the Defendants motions for summary judgment, denying the jury trial granted prior thereto, in violation of Petitioner's constitutional right guaranteeing him a trial by jury under the Seventh Amendment to the United States Constitution, to defend against his property right being deprived and disallowed by the Respondents herein, in violation of Petitioner's right under Amendment Fourteen of the United States Constitution, wherein the Respondents deprived Petitioner of his property without due process of the law and access to the courts. App-D,p-4la.

On August 19, 1993, the United States District Court denied Petitioner's motion for reconsideration.

On November 2, 1994, the United States Seventh Circuit Court of Appeals vacated the U.S. District Court's summary judgment against this Petitioner, and erroneously instructed the district court to dismiss

Petitioner's complaint for lack of subject matter jurisdiction, contrary to the U.S. Constitution which guarantees Petitioner protection of a trial by jury against the blatant violations Respondents committed and inflicted against Petitioner in their denial of Petitioner's real estate property rights and denial of access to the state courts to defend such violations of his Seventh and Fourteenth Amendments Constitutional rights.

The district court record and docket will clearly show (Appendix (C) that extensive and costly depositions were conducted, and that Petitioner's intent when he filed his lawsuit against the Respondents to protect and defend his real estate, is a factual issue reserved for fact finding and determination by the jury as demanded in the complaint. Refer to cases cited below in reasons for granting writ which support Petitioner's triable issues by a jury; also cited in Table of Authorities to this petition.

REASONS FOR GRANTING WRIT

Certiorari should be granted for the reason that the U.S. District Court had granted this Petitioner's request for a jury trial on March 13, 1993, which appears in Appendix (E) to this petition, since the district court had determined there were sufficient grounds which presented triable issues pursuant to Amendments Seven and Fourteen of the United States Constitution (which appears in Appendix (D) to this petition).

Thereafter, on July 19, 1993, the district court unlawfully and contrary to the U.S. Constitution, took away Plaintiff-Petitioner's trial by jury by a bench ruling which granted Defendants-Respondents motion for summary judgment, which appears in Appendix (A) to this petition.

The Seventh Circuit Court of Appeals further violated Petitioner's right to a jury trial by failing to reverse the district court's summary judgment for a trial

by jury in lieu of their instructions to the district court to dismiss complaint for lack of jurisdiction, and additionally, the Seventh Circuit Court of Appeals vacated the district court's summary judgment. The Seventh Circuit Court of Appeals instructions to the district court was contrary to the clear record and docket of the case that had transpired in the district court granting jury trial after determining that justifiable intent existed when this Petitioner filed his lawsuit to defend and protect his real estate property and for damages caused by the Respondents, all of which were factual issues reserved for fact finding and determination by a jury.

In Tarter v. Tucker, Ky., 280 S.W. 2d 150, 152 (1955), and James Graham Brown Foundation, Inc., v. St. Paul Fire & Marine Ins., Co., Ky., 814 S.W. 2d 273, 276 (1991), confirms that intention is a factual issue reserved for determination by the fact finder, and therefore inappropriate for

summary judgment.

The record in this appeal indicates that the area of disputed facts centered around intent, and accordingly the cause in this action was not the proper subject for summary judgment, and therefore, should have been reversed by the United States Seventh Circuit Court of Appeals with instructions that a trial by jury be held (as demanded in the complaint), instead of contrarily instructing the district court to dismiss Plaintiff's complaint.

If this case is not reviewed and remanded back to the U.S. District Court for a trial by jury pursuant to the Seventh and Fourteenth Amendment to the U.S. Constitution, then the United States Constitution is not worth the paper it is written on and the powder it would take to blow it to hell, then trial by combat is obviously the choice of the judicial branch.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the entry and order of the U.S. District Court for the Southern District of Indiana, which was remanded by the United States Seventh Circuit Court of Appeals with instructions to dismiss Plaintiff-Petitioner's complaint, denying him a trial by jury.

Dated: 12-5-94

Submitted by,

CHARLES W. WRIGHT,
Petitioner pro se
832 Fulton Street
Jeffersonville, IN 47130
Tel: (812) 282-7497

(APPENDIX FOLLOWS)

A P P E N D I X

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EXHIBIT A*...Judgment and Entry and Order (1) Granting Motions for Summary Judgment, (2) Imposing Sanctions on Plaintiff and (3) Directing Entry of Judgment Dated July 19, 1993, by the U.S. District Court for the Southern District at New Albany..... 1a-30a

EXHIBIT B...Judgment - Without Oral Argument by the U.S. Seventh Circuit Court of Appeals, dated November 2, 1994..... 31a-38a

EXHIBIT C...Original Record on Appeal and Certified Copy of Docket Sheets prepared by U.S. District Court for the Southern District at New Albany, dated March 3, 1994..39a-40a

EXHIBIT D...United States Constitution, Amendment VII-Civil Trials, and Amendment XIV..... 41a

EXHIBIT E...Marginal Ruling Granting Trial by Jury, dated March 23, 1993 signed by U.S. District Court Judge..42a-43a

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(*) Due to mis-leading statements made in the U.S. District Court's entry and order dated July 19, 1993, Petitioner has clarified/corrected inside [brackets] throughout EXHIBIT A by explaining the truth of the mis-leading statements therein and throughout Exhibit A - in order that this Court may know the truth that the case below did not stem from a mortgage foreclosure against real estate due to default of mortgage (as falsely purported by Exhibit A's entry and order), but instead, stemmed from a discriminatory conspiracy against Petitioner by the defendants named herein along with the state courts support.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CHARLES W. WRIGHT, Plaintiff,	)	
v.	)	Cause No.
DENNIS R. TACKETT,	)	
TACKETT, TAURMAN & SONNE,	)	NA-92-38-C
FREDERICK E. ADKINS,	)	
CITIZENS FIDELITY BANK,	)	
LEWIS A ENDRES,	)	
YOUNG, LIND, ENDRES & KRAFT,	)	
Defendants.	)	

J U D G M E N T

The Court, having this day made its Entry, IT IS NOW THEREFORE ADJUDGED AND DECREED that the defendants' motions for summary judgment are in all respects GRANTED and that judgment is entered for the defendants and against the plaintiff as to each claim in the complaint. The costs of this action are assessed against the plaintiff.

IT IS FURTHER ADJUDGED AND DECREED that the plaintiff PAY FORTHWITH the following sanctions for his violation of Rule 11:

1. He shall pay to the Clerk of this Court the sum of One Thousand Dollars ($1,000.00); and

2. He shall pay to the following the sums designated:

Defendant Tackett	$500.00
Tackett/Taurman/Sonne	$500.00
Citizens Fidelity Bank	$1,000.00
Fred Adkins	$500.00

(s) S. Hugh Dillin, Judge
Date 7/19/93 United States District Court

Copies to:

Charles Wright, 832 Fulton Street, Jeffersonville, IN 47130;

Irvin H. Sonne III, 201 W. Main St., Box 95, New Albany, IN 47150;

C. Allan Hoffer, 126 W. Spring St., New Albany, IN 47150;

Mark E. Bell, 9000 Keystone Crossing #560, Indianapolis, IN 46204;

David M. Wallman, Office of the Indiana Attorney General, Indiana Government Center South Fifth Floor, 402 West Washington Street, Indianapolis, IN 46204-2770

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CHARLES W. WRIGHT, Plaintiff,	)	
v.	)	Cause No.
DENNIS R. TACKETT,	)	NA 92-38-C
TACKETT/TAURMAN/SONNE,	)	
FREDERICK E. ADKINS,	)	
CITIZENS FIDELITY BANK,	)	
LEWIS A. ENDRES,	)	
YOUNG, LIND, ENDRES, KRAFT.	)	

ENTRY AND ORDER (1) GRANTING MOTIONS FOR SUMMARY JUDGMENT, (2) IMPOSING SANCTIONS ON PLAINTIFF AND (3) DIRECTING ENTRY OF JUDGMENT

This cause is before the Court on the plaintiff's complaint, on the defendants' myriad motions and requests from the parties. In addition, certain defendants have moved for the imposition of sanctions, which requests the plaintiff has opposed.

Whereupon the Court, having read and examined such pleadings, motions, responses and requests, and being duly advised, now makes its rulings.

I. INTRODUCTION

The above case, viciously litigated, is much ado about nothing. Plaintiff

Charles Wright sought to interject himself in state mortgage foreclosure actions against his present wife (Martha) in Floyd County and Clark County(*). When the state courts gave him the cold shoulder, he filed this

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(*) Wright sought leave to intervene as a defendant in an action pending in the Clark County Superior Court as No. 10D-9106-CP-0062. The action had originally been brought by Fred Adkins against his former wife Martha Sue Adkins, who married Charles Wright after she and Fred Adkins had been divorced. Wright's motion to intervene was initially granted, but this was later rescinded for further hearing and upon further hearing was denied on March 16, 1992. On February 4, 1993 the Clark Superior Court entered its judgment and decree of foreclosure (relating to proceedings conducted on April 27, 1992). A judgment in the amount of $57,453.36 plus interest, costs and attorney fees was entered against Martha Adkins, now Martha Wright. In addition the court ordered that Martha's interest in the property be foreclosed upon. On April 14, 1993, the day before the property was subject to be sold at public auction, Martha Wright filed for bankruptcy protection.

A similar sequence of events took place in Floyd County in an action docketed as 22C019106CP-00219. Fred filed a complaint against Martha. Wright sought leave to intervene; the court denied Wright's request to intervene on November 27, 1991; and on August 12, 1992, the court entered summary judgment against Martha and a decree of foreclosure.

In each of these cases Fred had sued Martha because of her default in paying to Fred Adkins $57,453.36 worth of personal divorce judgments in their divorce action (continued at footnote 5a)

suit claiming "foul" on the part of the lawyers and Fred Adkins, and at the same time attempted to remove the state court actions. Since their arrival here, the Court has remanded the three state court cases and has dismissed the action as to Defendants Barthold, Leist, Todd and the State of Indiana. The Court's ruling of August 10, 1992 provides most of the pertinent background here. The defendants who remain in this action are the following:

Dennis R. Tackett, Tackett, Taurman & Sonne, Frederick E. Adkins, Citizens Fidelity Bank & Trust Co., Lewis Endres, Young, Lind, Endres & Kraft.

Each of these defendants, or the firms of which they are members, are involved in some way with the personal divorce judgments actions in Clark County or Floyd County. The specific role of each defendant is not significant. It is sufficient to note that the plaintiff's complaint is based on the

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(*continued)
awarded to Fred Adkins by the divorce Judge, Ted R. Todd, placed against Martha. In each case Wright sought unsuccessfully to intervene.

remedial provisions of 42 U.S.C. ss 1983, 1985 and 1986. Wright seeks twenty million dollars in damages.

The defendants have filed motions for summary judgment, which Wright has opposed. Defendants Tackett and his law firm, Adkins, and Citizens Bank have filed counterclaims against Wright for his alleged violation of Rule 11. Wright has opposed these counterclaims. Finally, there are myriad peripheral matters pending which will require little, if any discussion, because of the disposition of the principal motions in this case.

II. DISCUSSION

Summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law". Fed.R.Civ.P.56(c). See Anderson

v. Liberty Lobby, Inc., 477 U.S.242,248-49 (1986). In determining whether a genuine issue of material fact exists, the trial court must view the record and all reasonable inferences drawn therefrom in the light most favorable to the nonmoving party. Spring v. Sheboygan Area School District, 865 F.2d883,886(7th Cir.1989). At the summary judgment stage, the trial court's function is not "to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial". Anderson, 477 U.S. at 249. "A genuine issue of material fact exists only where 'there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party'." Wolf v. Fitchburg, 870 F.2d 1327,1329 (7th Cir. 1989) (quoting Anderson, 477 U.S. at 249).

A. CLAIMS UNDER 42 USC ss 1985 & 1986

Actions under 42 USC ss 1985(2), 1985 (3) and (derivatively) 1986 all rely on the existence of racial or other class-based

invidious discriminatory animus. Lowe v. Letsinger, 772 F.2d 308,311 (7th Cir. 1985). See Williams v. St. Joseph Hosp., 629 F.2d 448, 452 (7th Cir. 1980) (concerning 42 USC ss 1986). No such claim is made in the complaint, nor has one appeared subsequently. The Court finds 42 USC ss1985(2) inapplicable because (a) there is no allegation that force or threats were used to prevent Wright from appearing in a federal court and (b) there is no allegation that any defendants were motivated by invidious class-based discriminatory animus. Similarly, 42 USC ss1985(3) is inapplicable because (a) there is no allegation of class based animus, and (b) there was no allegation that Wright was prevented from voting. 42 USC ss 1985(1) is inapplicable because the complaint, even when liberally construed, does not allege a conspiracy to prevent a public official from discharging his official duties, as required for claims under section 1985(1). Grimes v. Smith,

776 F.2d 1359, 1363 (7th Cir. 1985). Claims under these statutes never belonged in the case and are dismissed.

B. CLAIM UNDER 42 U.S.C.ss 1983

This leaves only the claim under 42 USC ss 1983. To show that the private defendants acted under color of state law, Wright would have to show that they acted in concert with state actors. Dennis v. Sparks, 449 U.S. 24 (1980); Moore v. Market Place Restaurant, Inc., 754 F.2d 1336, 1352-53 (7th Cir. 1985). He has not alleged sufficient facts to support a conclusion that there was a conspiracy, and since the defendants are private parties that is the only means by which he can establish "state action". When questioned at his deposition, Wright was asked consistently to identify the factual basis for the complaint. The entire effort was an exercise in futility. Wright principally offered evasion but when pressed, opined that since the personal divorce judgments actions had sailed along

without him some knavery must lie behind them(**). The evidentiary materials in

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(**) Wright's deposition is replete with examples of this. He responded in the following manner in questioning concerning the basis of paragraph 4 of the complaint:

> My answer is, did you read my complaint? My answer is in that complaint. If you didn't read it, you need to read it because I've stated, you know, and I'm going to prove just what I've stated in there. (Deposition at p. 12).
>
> Their actions speak for themselves...It's so big, I don't know what you are talking about, I mean...The actions of all the proceedings against my property. (Deposition at pp 12-14).
>
> My facts are stated in the complaint that I filed...My facts are contained in my complaint, Mr. Sonne. (Deposition at p.16)

Well, for one, I purchased said property on the--entered into a contract with the previous owner, and whatever date it says there. I can't--it's back in June of--some date there. The 18th day of June, I bought the property from Martha Sue Adkins, which is now my wife. (Deposition p.17).

Anytime that you can enter into a contract and buy property in good faith, and proceed to have attorneys in violation of all procedural laws to foreclose on something that--didn't even give me an opportunity--didn't even notify me of anything. I bought the property in good faith, and the last thing I know is that you got the first mortgage holders proceeding to foreclose a mortgage that was not in default after Fred Adkins started his attempts to collect his personal divorce judgments against real estate already sold to Charles Wright --you tell me what's going on. (continued next page at footnote 11a)

this case are utterly barren of indicia that the defendants conspired with each other or anyone else (including the dismissed judges) to circumvent the plaintiff's property rights. In particular,

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(** continued)
Officers of the court are swaying people right and left. Their actions speak for themselves in what they do. (Deposition at pp. 23-24).

You're the one that asserted that Honorable Judge Todd--I'm sure, the officer of a court that was before him on the procedure, misled him in forming some kind of opinion [against me].

The actions of the parties foreclosing on my property, speak for themselves. You tell me how people can take a [personal divorce] judgment and not apply the rules of procedure in collection of [such personal cash divorce] judgments, and can proceed on to try to foreclose on property that I own, and that I bought on good faith [before Fred Adkins and his lawyers instituted their personal cash divorce judgments against referenced real estate at issue herein]. You tell me--what's happening here? Procedures and--lawyers are supposed to go by them, too, because I'm going by them.

He responded in the following manner in questioning concerning the basis of paragraph 5 of the complaint:

Here again, my rights as a property owner have not been notified formally or before these [personal cash divorce judgments] foreclosure actions have come down. I bought them [real estate property] in good faith and if somebody ain't conspiring to not notify me, I'll show you. Give me twelve jurors, and I'll show you what they say. I've been violated here.
(continued next page at footnote 12a)

the plaintiff went on in his deposition to testify that (1) he never recorded the contract on which he bases his claim to the property because he "didn't have time" (Deposition at p.80) and (2) there was a hearing in

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(** continued)
I have not had my due process. You all have not served me properly to defend my rights or my interest in that property. I'll show it, I'll show it. (Deposition at pp. 47-48).

Everything that I've been acquiring over this discovery, I have--I can't exhibit it right now because I don't have [the depositions in front of me] to refer back on--that's been on tape here. But I'll assert my evidence when I get it [depositions], and I've got some of it, but you know, for me to assert all my evidence right here, just bam-point blank, you have failed--not gave me my documents [discovery request pending] to where I could show you my evidence--I've subpoenaed them, I've requested them I've done everything [in discovery] to [try to make you] get my evidence and my documentation to assert my allegations. I've been--I've not yet--you've not given them to me. Until, you know, I get them received completely and all the depositions to give to you my evidence, you know, I'll give it to you when I get it, because you can believe I'm going to assert it, because I'm going to back up what I said in my complaint with evidence I get [from your law office in the discovery under request not complied with to date, for one, a perjured fraudulent federal court order the Tackett/Taurman/Sonne law office falsely stated in this federal court before Judge Dillin that Judge Barker had given them pertaining to Frederick and Martha Adkins divorce settlement which involved over a million dollars awarded to Frederick Adkins solely due to the perjured false contention of a federal court order, by the Tackett-Taurman-Sonne law firm and Fred Adkins, which never existed, proven in U.S. Bankruptcy
(continued next page at footnote 13a)

state court on his motion to be joined as a necessary party at which he appeared and in which he participated (Deposition at 90).

(** continued)
Court for the Southern District of Indiana at New Albany]. (Deposition at pp. 49-50)

Well, my facts are, is that I entered into a contract for purchase with the previous owner, Martha Sue Adkins, in good faith. I am a citizen of the United States. I was born here. I know that I have rights. I have property rights and when my property starts going into [Fred Adkins personal cash divorce judgments] foreclosure for something that I don't know about and I'm not notified about it, I'm being violated. That is my facts and that's what spurred--you can't just jump at the end of this complaint and say, give me that, because everything at the beginning--it leads up to this. As far as sanctions, I'm in good faith here and I believe I was conspired against to get my property. (Deposition at pp. 62-63)

The actions that was done to violate my rights, speak for themselves. Now, if somebody wasn't meeting of the minds in what's happened to my rights as a citizen and my property, there's something here, and I will back them up with my evidence...Here the facts are, that my property is being foreclosed on by your law firm's maneuvers in the court [over client, Fred Adkins personal cash divorce judgments awarded him in amount of $57,453.36, by Judge Todd, and attempted collection of such being instituted against real estate after Charles Wright purchased same from Martha Adkins]. The fact is, that I've never been notified properly to stand up prior to any--to assert my--I've had to come in here--I've been denied in the courts, an opportunity to assert and get my rights heard. My only alternative--I've been in state court trying to assert my right as a property owner, in good faith, on my contracts. I've been denied. I've been continually
(continued next page at footnote 14a)

These allegations are insufficient, in other words, to support even a triable issue concerning whether the defendants could be liable under Section 1983. First, the "facts" presented here show only that the defendant attorneys and their client utilized routine civil remedies to assert and preserve their property rights or those of their clients. This does not constitute state action. (continued on page 15a)

(** continued)

denied in state courts, so my only other alternative is to come to this federal court when the state laws are being violated. When I believe that my rights are being violated, my only other alternative is to come into federal court and to air them and to try and get them heard as my rights as a citizen and as my rights as a property buyer. I'm in good faith here. (Deposition at pp. 65-66).

As to the specter of conspiracy, Wright has not alleged sufficient facts to support a conclusion that there was a conspiracy and certainly did not produce facts or allusions to facts during the course of his deposition. It is not enough merely to raise a metaphysical possibility that the defendants might have conspired; there must be allegations of particularized facts which show the existence of a conspiracy. Rodgers v. Lincoln Towing Serv., 771 F.2d 194, 198 (7th Cir. 1985). A conspiracy, as far as the law is concerned, is not the figment of someone's imagination which can be summoned to explain when an effort or objective has been thwarted; it is, instead a specific thing--"a combination of two or more persons acting in concert to commit an unlawful act, or to commit a lawful act by unlawful means, the principle element of which is an agreement between the parties "to inflict a wrong against or

injury upon another,' and 'an overt act that results in damages". Rotermund v. United States Steel Corp., 474 F.2d 1139 (8th Cir. 1973) (citation omitted). To demonstrate the existence of a conspiratorial agreement, it simply must be shown that there was "a single plan, the essential nature and general scope of which (was) known to each person who is to be held responsible for its consequences". Id. See also Bell v. City of Milwaukee, 746 F.2d 1205, 1225 (7th Cir. 1984). Furthermore, although a civil conspiracy may be shown solely by circumstantial evidence, a conspiracy cannot be invented to provide post hoc rationalization for particular events. That is all Wright identifies or offers in support of his "conspiracy" claims. There is no plausible basis, therefore, on which to conclude that these private defendants acted "under color of state law" in the personal cash divorce judgments awarded Frederick Adkins

in amount of $57,453.36 in Judge Todd's divorce court].

Alternatively, it is evident that in being locked out of the state foreclosure actions, Wright's real claim is that his property interests were extinguished without giving him an opportunity to be heard. He does not claim that Indiana law does not provide a meaningful structure for the resolution of conflicting claims to title of real estate [and all in view of the fact Wright was denied an added party in which to pursue a meaningful structure for the resolution of conflicting claims to real estate]. Cf. Buckley v. Illinois Judicial Inquiry Board, 1993 U.S. App LEXIS 13606 (7th Cir. June 10, 1993).

His complaint, instead, is with particular decisions made in two cases in which he claims to have had an interest [but was disallowed access to the state courts to present and prove his ownership while Tackett and Adkins and their

co-conspirators Young, Lind, Endres & Kraft, all were proceeding at break-neck speed 'with the state courts' swift support' for a speedy auction and sale of Wright's real estate, all in the defendants total disregard of Wright's constitutional rights being protected]. In this connection, it is clear that he had adequate remedies under Indiana law. One of these was to appeal the denial of his requests for intervention in the foreclosure actions. White v. Vermillion County Board of Zoning Appeals, 568 N.E.2d 1106 (Ind. App. 1991). Another would have been to initiate his own actions to quiet title to the property. These remedies were adequate to protect Wright's claims to an ownership interest in the property, although as the defendants note those claims would probably have been easily defeated by the fact that Wright did not record the land contracts through which he claims to have acquired his interest in the property. Therefore, Wright cannot take a

personal cash divorce judgment awarded Fred Adkins in a divorce court, of which is mis-labeled "a routine mortgage foreclosure action by Judge Dillin in this entry and order", take exception to rulings made therein and vault over to federal court arguing that his "due process" rights have been violated. His due process rights were not protected, and again mis-labeled by Judge Dillin as "were protected" by his ability to appeal the judgments entered in Fred Adkins foreclosure actions to the extent that his intervention was denied by the trial courts even though state law is that a person not a party to an action may not appeal such action, contrary to Judge Dillin's concept and theory of state law appeals by persons not made a party to the action. In fact, it appears that he did not properly exercise those rights and cannot now invent a scenario in which he was denied them. (***)

(***) In each case the trial court's docket sheet shows an appeal taken by Wright shortly after he

(continued on page 21a)

In this case, as in Ritter v. Ross, 992 F.2d 750 (7th Cir. 1993), the plaintiff has dressed up his discontent with the course of state foreclosure proceedings and cast it in a mold which would ordinarily be a routine civil rights action in federal court. In doing so each plaintiff sought collateral review of the state proceedings. This is not permissible, for it runs headlong in the Rooker-Feldman doctrine, which "simply forbids federal district court appellate review of state court judgments in the guise of collateral attacks when no federal statutes authorizes such review". Id., 992 F.2d at 753, quoting James S. Liebman, Apocalypse Next Time?: The Anachronistic Attack on Habeas Corpus/Direct Review Parity, 92 Colum.L.Rev. 1997, 2008 n.46 (1992). Although Wright has failed to identify a constitutional claim in this case, it is clear that even if such a claim existed, it derives from and is inextricably intertwined with the state [personal cash divorce judgments awarded to Fred Adkins] foreclos-

ure proceedings. As such, it cannot be the subject of a separate suit in federal court. Id., 992 F.2d at 754.

"One of the principal purposes of the summary judgment rule is to isolate and dispose of factually unsupported claims or defenses..."before trial. Celotex Corp., 477 U.S. 317, 325 (1986). The framework for an analysis of a Rule 56(C) motion is to identify the nature of the claim (or defense) as to which summary judgment is sought, examine the evidentiary materials properly before the Court to determine whether there is a genuine issue of material fact and, if not, determine whether the moving party is entitled to judgment as a matter of law based on those facts. Anderson, 477 U.S. at 252-255.

(*** continued)
was denied leave to intervene. In each case the appeal was unfruitful for him, though on precisely what grounds is not clear. In any event, his most viable opportunity to prevail would have come upon the entry of final judgment. It is telling that no appeal of the previous interlocutory order denying him leave to intervene was taken after final judgment in either case.

The party moving for summary judgment has the initial burden of submitting affidavits and other evidentiary material to show the absence of a genuine issue of material fact. Beard v. Whitley County REMC, 840 F.2d 405, 409-10 (7th Cir. 1988). A genuine issue of material fact exists when "there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party". Anderson v. Liberty Lobby, Inc. 477 U.S. 242. 249 (1986). Once the moving party has sustained its initial burden, the opposing party may not rest upon the mere allegations or denials of the pleadings, but instead must come forward with specific evidence, by affidavits or as otherwise provided in Rule 56, showing a genuine issue for trial. The court must then view the entire record in the light most favorable to the nonmoving party. Cain v. Lane, 857 F.2d 1139, 1142 (7th Cir. 1988). Further, Rule 56(C) "mandates the entry of summary judgment, after adequate time for discovery

and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial". Celotex, 477 U.S. at 322. As the first circuit has observed, "even in cases where elusive concepts such as motive or intent are at issue, summary judgment may be appropriate if the nonmoving party rests merely upon conclusory allegations, improbable inferences, and unsupported speculation". Medina-Munoz v. R.J. Reynolds Tobacco Co., 896 F.2d 5, 8 (1st Cir. 1990). This is such a case. Accordingly, the defendants' motions for summary judgment must be granted.

III. REQUESTS FOR SANCTIONS

Tackett, his law firm and Citizens Bank claim that Wright has violated Rule 11 in bringing this action. Rule 11 of the Federal Rules of Civil Procedure prohibits the filing of pleadings that are interposed for any improper purpose, such as to harass or cause unnecessary delay or needless in-

creased cost of litigation. Burda v. M. Ecker Co., 954 F.2d 434, 439 (7th Cir. 1992). "A signature certifies to the court that the signer has read the document, has conducted a reasonable inquiry into the facts and the law and is satisfied that the document is well grounded in both, and is acting without any improper motive". Business Guides, Inc., v. Chromatic Comm. Enterprises, Inc., 498 U.S. 533, 540 (1991)). Because Rule 11 applies to "anyone who signs a pleading", it applies to pro se litigants such as Mr. Wright.

The record here compels the conclusion that the removal petition and complaint were bad faith attempts by Wright to delay and disrupt the personal cash divorce judgments awarded Fred Adkins in amount of $57,453.36 by Judge Todd's divorce court state foreclosure proceedings. He didn't get his way and when faced with defeat sought to befoul everyone's interests by concocting this case it appearing here that the court

has concocted a personal biased and prejudiced imaginary theory/scenario that doesn't exist]. To consider it anything other than the outgrowth of Wright's bad faith would be to ascribe to him pure irrationality--something the Court would not penalize but which is nonetheless refuted by the extensive record of pleadings and motions.(****) As to the second prong, legal baselessness, in this Circuit,

> when a layman persists in a hopeless cause long after it should have been clear to him, as a reasonable (though not law-trained) person, that his cause was indeed hopeless, sanctions should be imposed....

Bacon v. American Federation of State, County & Mun. Employees Council No. 13, 795 F.2d 33, 35 (7th Cir. 1986). Wright has done precisely this, in removing the action, filing the complaint and continuing the action, and

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(****)
Wright was deposed by the defendants on February 10, 1993 and his deposition is part of the evidentiary materials before the Court. He was questioned during his deposition, among other things, regarding his theory of recovery in this case. His answers, to put it charitably, were feeble and uninformative. They did not reveal, however, a feeble mind.

in doing so has violated Rule 11. The imposition of appropriate sanctions, therefore, is now mandatory. Insurance Benefit Adm'rs, Inc., v. Martin, 871 F.2d 1355, 1357 (7th Cir. 1989).

A plaintiff cannot cross the threshold of any courthouse, federal or state, chant through his pleadings that the defendants have wronged him, remain unable to articulate a factual or legal basis for his claims or the existence of the suit, and go unscathed. The Court, obviously, does not dictate what cases come before it--a district court cannot create, expand, diminish or evade its subject matter jurisdiction--but it can certainly use appropriate mechanisms when called upon to do so to assure that those who submit cases premised on fabrications and delusions are brought to task for their abuse of both the Court's limited resources and the expense and ordeal of those sucked into the melee. This is such a case [but would a jury of twelve agree if only given the chance to find out??].

The Court is aware of Wright's litigation in Wright v. Long, et al, No. NA-92-C (S.D.Ind.January 20, 1993).***** There are similarities: 1) in each case Wright removed an action from a state court; 2) in each case the pending state court actions were entirely within the province of state court litigation--domestic relations matters in the case of NA 92-2-C and local real estate foreclosures in the present case; 3) in each case Wright compounded a baseless removal by attempting to expand the controversy to assert wrongdoing by the attorneys of his adversaries and 4) in each case Wright could not establish even a tenuous basis for bringing or keeping the case in federal court. This

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(*****)
This is not remarkable. The Court has the authority to take notice of its records, Green v. Warden 699 F.2d 364, 369 (7th Cir.), cert. denied, 461 U.S. 960 (1983), and frequently does so. Doing so here adds insight into the repetitive nature of Wright's abusive litigation, although obviously he will not be sanctioned in his case for anything not filed in this case. [the foregoing remarkable reference should begin to shed light into the obvious established factual records of discrimination by the legal system and its officers of the law

Court concurs with Judge Barker's general conclusion in NA 92-2-C that "(c)onsidering the substantial effect of Wright's violation of Rule 11...both a fine and full or partial reimbursement of the defendants' attorney fees are entirely justified".

The Rule 11 sanctions imposed are these:

> 1. Plaintiff Charles Wright is FINED in the amount of One Thousand Dollars ($1,000.00) and shall PAY such sum to the Clerk of this Court. Payment(s) shall be payable to "Clerk, U.S. District Court" and shall be tendered to the Clerk, 210 Federal Building, 121 West Spring Street, New Albany, IN 47150.
>
> 2. Plaintiff Charles Wright shall PAY as full or partial reimbursement for the expenses incurred in defending against this action to the following:
>
> | | |
> |---|---|
> | Defendant Tackett | $500.00 |
> | Tackett/Taurman/Sonne | 500.00 |
> | Citizens Fidelity Bank | $1,000.00 |
> | Fred Adkins | $500.00 |

Payment of the foregoing shall be made to their counsel of record.

(***** continued)

against the Wright Family (William A. Wright and Charles W. Wright) by the Kentucky and Indiana court systems and their lawyers, wherein numerous necessary lawsuits have been filed through necessity in attempt to combat the gross discriminations and constitutional rights violations inflicted against the Wright family by the court system and its lawyers].

IV. COSTS AND MISCELLANEOUS MATTERS

The costs of this action recoverable under 28 USC ss 1920 are assessed against the plaintiff. Any prevailing party may also seek to recover attorney fees in this action pursuant to 42 USC ss 1988. See Foster v. Mydas Assocs., Inc., 943 F.2d 139, 145-46 (1st Cir. 1991).

By reason of the foregoing, the multitude of motions regarding discovery and other motions pending not specifically addressed herein are denied as moot.

O R D E R

On the basis of the foregoing, therefore, the defendants' motions for summary judgment are granted, the plaintiff is sanctioned for his violation of Rule 11 as explained herein and other pending motions are denied as moot. The sanctions imposed herein are payable forthwith. The costs of this action are assessed against the plaintiff. Judgment consistent with this Entry and Order shall now issue.

ALL OF WHICH IS ORDERED this 19th day of July, 1993.

/s/ S. Hugh Dillin
United States District Court

Copies to:

Charles Wright
832 Fulton Street
Jeffersonville, IN 47130

Irvin H. Sonne III
201 W. Main Street
P.O. Box 95
New Albany, IN 47151-0095

C. Allan Hoffer
126 W. Spring Street
New Albany, IN 47150

Mark E. Bell
9000 Keystone Crossing, #560
Indianapolis, IN 46204

David M. Wallman, Deputy AG
Office of the Indiana Attorney General
Indiana Government Center South, 5th Fl.
402 W. Washington Street
Indianapolis, IN 46204-2770

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
CHICAGO, ILLINOIS 60604

JUDGMENT - WITHOUT ORAL ARGUMENT

Date: November 2, 1994

BEFORE: Honorable WILLIAM J. BAUER,
Circuit Judge

Honorable KENNETH F. RIPPLE,
Circuit Judge

Honorable ILANA DIAMOND ROVNER,
Circuit Judge

No. 93-3220

CHARLES W. WRIGHT,
Plaintiff - Appellant

v.

DENNIS R. TACKETT, in his personal and professional capacity, TACKETT, TAURMAN & SONNE LAW FIRM, FREDERICK E. ADKINS, et al.,
Defendants - Appellees

Appeal from the United States District Court for the Southern District of Indiana, New Albany Division - No. 92 C 38, S. Hugh Dillin, Judge

The judgment of the District Court as to the imposition of sanctions under Federal Rule of Civil Procedure 11 is AFFIRMED, but the grant of summary judgment in favor of defendants is VACATED, and the case is REMANDED with the instructions to dismiss for lack of subject matter jurisdiction, Wright will bear the costs of this appeal, in accordance with the decision of this court entered on this date.

(1060-110393)

In the

United States Court of Appeals

For the Seventh Circuit

No. 93-3220

CHARLES W. WRIGHT,

Plaintiff-Appellant,

v.

DENNIS R. TACKETT, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Indiana, New Albany Division.
No. 92 C 38—S. Hugh Dillin, *Judge.*

SUBMITTED OCTOBER 18, 1994*—DECIDED NOVEMBER 2, 1994

Before BAUER, RIPPLE, and ROVNER, *Circuit Judges.*

PER CURIAM. Charles W. Wright ("Wright"), a *pro se* plaintiff, appeals the district court's grant of summary judgment in favor of the defendants in this suit brought under 42 U.S.C. §§ 1983, 1985, and 1986. In his complaint,

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* After preliminary examination of the briefs, the court notified the parties that it had tentatively concluded that oral argument would not be helpful to the court in this case. The notice provided that any party might file a "Statement as to Need of Oral Argument." *See* Fed. R. App. P. 34(a); Cir. R. 34(f). No such statement having been filed, the appeal is submitted on the briefs and the record.

Wright alleged that defendants conspired to violate his civil rights when they took actions to foreclose against his real property. The principal question before us is whether the *Rooker-Feldman* doctrine bars federal jurisdiction over Wright's claims. We believe that it does.

I. BACKGROUND

In December 1990, Wright's current wife, Martha Sue Wright, obtained a divorce from Frederick E. Adkins. In the ensuing property division, the Scott County (Indiana) Circuit Court awarded Mrs. Wright sole ownership of the marital residence located in Clark County, Indiana, and an office building in Floyd County, Indiana which was subject to a mortgage and lien. In that same property division, the court entered a money judgment against Mrs. Wright and in favor of Adkins.

When Mrs. Wright failed to satisfy the money judgment against her, Adkins brought foreclosure actions in the trial courts of Clark County and Floyd County against the marital residence and office building, respectively. In November 1991, Wright moved to intervene in both foreclosure actions, claiming that he was the joint owner of the property with Mrs. Wright. Wright contended that he had purchased both properties from Mrs. Wright before Adkins filed his foreclosure actions. The trial courts in Floyd County and Clark County denied Wright's motions.

In March 1992, Wright moved the Scott County Circuit Court, which had dissolved the Adkinses' marriage, to appoint a Commissioner to execute Adkins' signature on quitclaim deeds relating to the marital residence and office building. A Special Judge of the Scott County Circuit Court rejected Wright's motion.

In April 1992, Wright filed this complaint *pro se* in federal district court, alleging that defendants violated 42 U.S.C. §§ 1983, 1985, and 1986 by depriving him of property without due process. Wright sought an award of twenty million dollars in damages from two lawyers and their

respective law firms, his wife's former husband, a bank, three Indiana state court judges, and the State of Indiana, all of whom he claims conspired to deprive him of his civil rights.[1]

The gravamen of the complaint is that defendants conspired to recover on Adkins' judgment against Mrs. Wright by filing unlawful state mortgage foreclosure actions against real estate that she had previously conveyed to Wright. Wright offers virtually no details or elaboration in support of his conspiracy charge, except for bald assertions that the judicial defendants improperly ruled against him or that the private defendants unlawfully participated in the foreclosure actions. Wright also filed a petition to remove all three cases from Indiana state court to the federal district court.

The district court dismissed Wright's claims against the State of Indiana and the three judicial defendants because such claims were barred by the Eleventh Amendment and the doctrine of judicial immunity. The court also denied Wright's petition for removal and remanded the three state cases to the state courts. In addition, the court dis-

[1] All defendants named in Wright's complaint are alleged to have played some role in the state foreclosure proceedings. Frederick E. Adkins, who was represented by Dennis R. Tackett of the law firm Tackett, Taurman & Sonne, P.C., initiated the foreclosure actions against the real estate parcels in Clark County and Floyd County. Citizens Fidelity Bank and Trust Company, which was represented by Lewis A. Endres of the law firm Young, Lind, Endres & Kraft, also filed foreclosure actions against the same property. Clementine B. Barthold, a judge of the Clark County Superior Court, denied Wright's motion to intervene as an indispensable party in the forfeiture action filed in her court. Henry N. Leist, a judge of the Floyd County Circuit Court, denied a similar motion filed in his court. Ted R. Todd, a Special Judge of the Scott County Circuit Court, which dissolved the Adkinses' marriage, refused Wright's request for the appointment of a Commissioner to execute Adkins' signature on quitclaim deeds pertaining to the two properties awarded to Mrs. Wright in the property division.

missed Wright's §§ 1985 and 1986 claims because he had failed to assert the existence of any racial or other class-based invidious discriminatory animus. Furthermore, the court found that Wright failed to allege sufficient facts to support charges of conspiracy or any other violation under § 1983. Alternatively, the court ruled that Wright's action was barred by the *Rooker-Feldman* doctrine, which forbids federal court review of state court judgments in the guise of collateral attacks. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 416 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 486 (1983). Finally, the court imposed sanctions on Wright for disrupting the state foreclosure proceedings.

II. ANALYSIS

On appeal, Wright has filed a brief in which he basically restates the general allegations raised in his complaint. He requests that this court reverse the district court and remand for further adjudication. Because Wright is proceeding *pro se*, we will liberally construe his complaint. *Del Raine v. Williford*, 32 F.3d 1024, 1050 (7th Cir. 1994).

A. Jurisdiction

We must first examine whether the district court, as well as this court, have subject matter jurisdiction. That inquiry requires us to ask whether the *Rooker-Feldman* doctrine bars the litigation of this dispute in federal court. Under the *Rooker-Feldman* doctrine, the " 'lower federal courts lack jurisdiction to engage in appellate review of state-court determinations.' " *Ritter v. Ross*, 992 F.2d 750, 753 (7th Cir. 1993) (citations omitted), *cert. denied*, 114 S. Ct. 694 (1994). Litigants cannot file collateral attacks on state courts' civil judgments, *Gash Associates v. Village of Rosemont, Illinois*, 995 F.2d 726, 727 (7th Cir. 1993); instead, they must seek review in the United States Supreme Court, *Landers Seed Co. v. Champaign Nat'l Bank*, 15 F.3d 729, 732 (7th Cir. 1994) (citations omitted). A district court engages in impermissible review when

it is asked to entertain a claim that was not argued in the state court but is "inextricably intertwined" with the state court judgment. *Ritter*, 992 F.2d at 753 (quoting *Feldman*, 460 U.S. at 483 n.16). While any definition of "inextricably intertwined" is problematic, the "crucial point is whether 'the district court is in essence being called upon to review the state-court decision.' " *Id.* at 754 (quoting *Feldman*, 460 U.S. at 483-84 n.16).

Here, application of the *Rooker-Feldman* doctrine requires dismissal of this action for lack of subject matter jurisdiction. Although Wright's complaint presented several constitutional—albeit conclusory—claims, those claims are inextricably intertwined with the various state court determinations handed down previously. In essence, Wright asked the federal district court to review the state court's denial of his requests to intervene in the foreclosure actions. Because the district court does not have authority to exercise such review, the complaint should have been dismissed for lack of subject matter jurisdiction. Wright " 'may not seek a reversal of a state court judgment simply by casting his complaint in the form of a civil rights action.' " *Id.* (citations omitted). The merits of the state court's rulings are beyond the jurisdiction of the district court and this court. *Id.* at 755; *Leaf v. Supreme Court of Wisconsin*, 979 F.2d 589, 598 (7th Cir. 1992), *cert. denied*, 113 S. Ct. 2417 (1993). Any relief for Wright must come from the Indiana judicial system and not from us.

We conclude that both this court and the district court lack subject matter jurisdiction over Wright's case, and we vacate and remand with instructions to the district court to dismiss for lack of jurisdiction.

B. Sanctions

Wright also challenges the Fed. R. Civ. P. 11 sanctions imposed on him for filing this action for an improper purpose. We review the imposition of Rule 11 sanctions for

abuse of discretion. *Flaherty v. Gas Research Inst.*, 31 F.3d 451, 458 (7th Cir. 1994).[2]

The district court sanctioned Wright on the basis that his pleadings were "bad faith attempts . . . to delay and disrupt the state foreclosure proceedings." *Wright v. Tackett*, 92 C 38, slip op. at 12 (S.D. Ind. July 19, 1993) (order granting motions for summary judgment, imposing sanctions on plaintiff, and directing entry of judgment). The court added that Wright "didn't get his way and when faced with defeat sought to befoul everyone's interests by concocting this case." *Id.*

On appeal, Wright does not offer any arguments or explanations as to why we should overturn the sanctions. In the concluding paragraph of his brief, he asserts only that the sanctions should be set aside because they are "so obviously levied against him with much hostility and prejudice that Charles Wright is not responsible for." (Appellant's Br. at 15.) This lone assertion is insufficient to overcome the high threshold of the abuse of discretion standard. *See City of East St. Louis v. Circuit Court for Twentieth Judicial Circuit, St. Clair County, Illinois*, 986 F.2d 1142, 1145 (7th Cir. 1993). This record reveals that Wright's action was filed for no reason other than to delay the foreclosure proceedings.

The district court's imposition of sanctions under Fed. R. Civ. P. 11 is AFFIRMED, but the grant of summary judgment in favor of defendants is VACATED, and the case is REMANDED with instructions to dismiss for lack of subject matter jurisdiction. Wright will bear the costs of this appeal. Fed. R. App. P. 39.

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[2] Although Rule 11 was amended effective December 1, 1993, we apply the pre-amendment version here because Judge Dillin imposed sanctions in July 1993. *See Flaherty*, 31 F.3d at 458 n.8; *Land v. Chicago Truck Drivers, Helpers & Warehouse Workers Union (Indep.) Health & Welfare Fund*, 25 F.3d 509, 515-16 (7th Cir. 1994).

A true Copy:
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Clerk of the United States Court of Appeals for the Seventh Circuit

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Office of the Clerk
Room 210, Federal Building
New Albany, Indiana 47150
(812) 948-5238

Christopher F. Wright,
Acting Clerk

March 3, 1994

Thomas F. Strubbe, Clerk
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
219 S. Dearborn Street #2722
Chicago, Illinois 60604

RE: CHARLES W. WRIGHT, Plaintiff/
Appellant
vs.
DENNIS R. TACKETT, et al,
Defendant/
Appellees

U.S.C.A No. 93-3220

U.S.D.C. No. NA 92-38-C

Dear Mr. Strubbe:

Enclosed herewith please find the original record on appeal. It consists of the following:

3 Volumes Pleadings
5 Volumes Depositions

Please acknowledge receipt of the above-stated materials on the attached copy of this letter. Thank you for cooperation.

Sincerely,
Christopher Wright,
Acting Clerk

By: /s/ Elizabeth Stoner,
Deputy
New Albany Division

cc:
Charles Wright
Irvin Sonne III
Alan Hoffer
David Wallman
Mark Bell

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CHARLES W. WRIGHT,
Plaintiff-Appellant

vs.

DENNIS R. TACKETT, et al,
Defendant-Appellees

(U.S.C.A. NO. 92-3220)

(U.S.D.C. NO. NA 92-38-C)

CERTIFIED COPY OF DOCKET SHEETS

TITLE OF PLEADING	DOCUMENT NO.
Court's Marginal Notation Ruling dated 3/23/93.....	127
Pltf's Motion for Reconsideration & Oral Hearing to Show Cause filed 7/26/93.....	144
Court's Marginal Notation Ruling dated 8/19/93.....	145
Notice of Appeal by pltf/ appellant filed 9/17/93.....	147

UNITED STATES CONSTITUTION:

AMENDMENT VII-CIVIL TRIALS

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

AMENDMENT XIV-CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION;

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CHARLES W. WRIGHT,
Plaintiff,
vs.
DENNIS R. TACKETT, et al,
Defendants.

CAUSE NO. NA-92-38-C

FILED MAR 18 1993
JOHN A. O'NEAL,
CLERK (/s/ initialed)

GRANTED (hand-written)
/s/Kenneth Foster,
U.S. Magistrate Judge 3/23/93

WITHDRAWAL OF MOTION FOR SUMMARY JUDGMENT SUBMITTED BY PLAINTIFF

Comes Charles W. Wright, Plaintiff/ pro se, and withdraws his previously filed motion for summary judgment. Reasons are as follows:

1. Plaintiff demands a trial by jury in these issues, as stated in his complaint.

2. Justice requires that these issues be laid to rest once and for all by a trial by jury herein.

Respectfully submitted,

/s/ Charles W. Wright
Plaintiff pro se
832 Fulton Street
Jeffersonville, IN
47130
(812) 282-7497

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CHARLES W. WRIGHT, Plaintiff,	)	
vs.	)	CAUSE NO.
DENNIS R. TACKETT, et al Defendants.	)	NA 92-38-C

TO COUNSEL OF RECORD:

Please take notice that the ruling, as indicated by the marginal notation on the attached pleading, motion or petition, has been made and entered on the Clerk's docket.

DATED: March 23, 1993

JOHN A. O'NEAL, CLERK

BY:

Deputy Clerk
New Albany Division

cc: All counsel of record